

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

C.73440
09-0606

AGREEMENT FOR COLLECTION SERVICES

I. PARTIES

THIS AGREEMENT FOR COLLECTION SERVICES ("Agreement") is made by and between the **CITY OF HOUSTON, TEXAS** ("City"), a home-rule city of the State of Texas principally situated in Harris County, acting by and through its governing body, the City Council, and **LINEBARGER, GOGGAN, BLAIR & SAMPSON, LLP**, ("Contractor"), a limited liability company doing business in Texas.

A. Address

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

City (for Non-Parking Citations)

Director of Municipal Courts Administration or
Designee
City of Houston
P.O. Box 1562
Houston, Texas 77251

Contractor

Norman Nelson
Houston Managing Partner
Linebarger, Goggan, Blair
& Sampson L.L.P.
1301 Travis Street, Ste 300
Houston, Texas 77002

The Parties agree as follows:

B. Table of Contents

This Agreement consists of the following sections:

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EXHIBITS

- A. Scope of Services: Collection of Delinquent Non-Parking Citations
- B. Equal Employment Opportunity
- C. MWBE Subcontract Terms
- D. Drug Policy Compliance Agreement
- E. Certification of No Safety Impact Positions
- F. Drug Policy Compliance Declaration

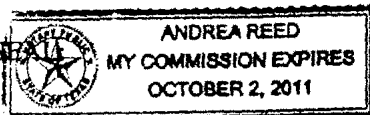
C. **Parts Incorporated**

The above-described sections and exhibits are incorporated into this Agreement.

D. Signatures

The Parties have executed this Agreement in multiple copies, each of which is an original.

ATTEST/SEAL:



By: Andrea Reed
Name: ANDREA REED
Title: ASSISTANT

LINEBARGER, GOGGAN, BLAIR,
& SAMPSON, LLP

By: Norman J. Nelson
Name: NORMAN J. NELSON
Title: PARTNER

ATTEST/SEAL:

Veronica Russell
City Secretary

CITY OF HOUSTON, TEXAS

Signed by

Bill White
Mayor John A. King

APPROVED:

Salvador J. Delgado
Director, Municipal Courts
Administration Department

COUNTERSIGNED BY:

Devin D. Parker
City Controller Madeline S. Appel

APPROVED:

Calvin D. Wells
Calvin D. Wells, Deputy Director
City Purchasing Agent

APPROVED AS TO FORM:

Lau P. Nguyen
Assistant City Attorney
L.D. File No. 0440900010001

DATE COUNTERSIGNED:

7-1-07

II. DEFINITIONS

As used in this Agreement, the following terms shall have meanings set out below:

"Agreement" means this Agreement between the Parties, including all exhibits and any written amendments thereto, which have been authorized by City Council by ordinance or motion and approved by Contractor.

"Business Day" means everyday except Saturday, Sunday or a designated City Holiday.

"Collection System" means a computerized system—including but not limited to functional specifications, notice and warrant forms, telephone scripts, database design, transaction coding structures, underlying methodology, software implementation and all other documents and things created, developed and/or used in connection with the performance of this Agreement—for turnkey collection of accounts referred to Contractor for collection.

"Contract Term" is defined in Article V.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Date of Countersignature" means that date shown as the date countersigned by the City Controller on the signature page of this Agreement.

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"Delinquent" means more than sixty (60) days past due. As used in this section, "more than 60 days past due" has that meaning assigned by Subsection (f) of Art. 103.0031, Texas Code of Criminal Procedure [as amended by Senate Bill 782, 78th Legislature (2003), effective June 18, 2003]

"Director of Municipal Courts" means the Director of the Department of Municipal Courts Administration (including his or her duties as Chief Clerk of City's Municipal Courts), or any

other person the Director of Municipal Courts designates. The Parties specifically understand and agree that in administering this Agreement relating to the Scope of Services in the attached Exhibit A, the Director of Municipal Courts is acting in his or her capacity as "a member of a Court of this State" within the meaning of that term as used in 101.053 of the Texas Civil Practice & Remedies Code.

"Documents" include the Collection System, notes, manuals, notebooks, plans, computations, databases, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, models, forms, photographs, scripts, notices, the original tracings of all drawings, designs and plans, electronic data and computer programs and other work products (and any modifications or improvements to them) that Contractor prepares or provides under this Agreement, or developed in conjunction with the City or with the Contractor's subcontractors.

"Effective Date" means the Date of Countersignature by the Controller in this Agreement.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

III. DUTIES OF CONTRACTOR

A. Scope of Services

In consideration of the payments specified in this Agreement, Contractor shall provide all labor, material, and supervision necessary to perform the services as fully described in the Scopes of Services attached hereto as Exhibit "A".

B. RELEASE

CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION

WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

C. INDEMNIFICATION

(1) CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

- (a) CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY, FOR PURPOSES OF THIS SECTION D, CONTRACTOR) ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
- (b) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND
- (c) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED

STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY,
WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION C. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. EXCEPT AS OTHERWISE PROVIDED HEREIN, CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

(2) CONTRACTOR SHALL MAKE TIMELY PAYMENTS TO ALL PERSONS AND ENTITIES SUPPLYING LABOR, MATERIALS, OR EQUIPMENT FOR THE PERFORMANCE OF THIS AGREEMENT. CONTRACTOR AGREES TO INDEMNIFY, SAVE, PROTECT, AND HOLD HARMLESS (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, COURT COSTS AND ALL OTHER DEFENSE COSTS AND INTEREST) THE CITY ITSELF, ITS PRESENT, FORMER AND FUTURE ELECTED AND APPOINTED OFFICIALS, OFFICERS, REPRESENTATIVES, ATTORNEYS, INSURERS, AGENTS, SERVANTS, EMPLOYEES, SUCCESSORS AND ASSIGNS, AND ALL AFFILIATED PERSONS AND ENTITIES [REFERRED TO JOINTLY IN THIS PARAGRAPH AS "CITY"] OF, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, JUDGMENTS, FINES, PENALTIES, DEMANDS, DAMAGES, LOSS OF USE OR SERVICES, LIABILITIES AND CAUSES OF ACTION, KNOWN AND UNKNOWN, AT LAW AND IN EQUITY, IN CONTRACT, IN TORT, UNDER STATE OR FEDERAL STATUTES OR PURSUANT TO THE CITY'S CHARTER OR THE TEXAS OR UNITED STATES CONSTITUTIONS (COLLECTIVELY "CLAIMS"),

INCLUDING BUT NOT LIMITED TO CLAIMS ARISING OUT OF THE ACTUAL OR ALLEGED INTENTIONAL CONDUCT, SOLE NEGLIGENCE, OR GROSS NEGLIGENCE OF THE CITY, OR THE ACTUAL OR ALLEGED STRICT, CONSTITUTIONAL OR STATUTORY LIABILITY OF THE CITY, ACCRUING IN ANY WAY TO ANY OF CONTRACTOR'S AGENTS, EMPLOYEES, SERVANTS, SUBCONTRACTORS AND/OR SUPPLIERS AND/OR BY ANY OTHER THIRD PARTY AND/OR ENTITY CLAIMING, BY THROUGH AND/OR UNDER CONTRACTOR AGAINST THE CITY, AS A RESULT OF ANY ACT, OMISSION, EVENT, TRANSACTION OR OCCURRENCE IN ANY WAY ARISING OUT OF, RELATING TO OR TOUCHING UPON THIS AGREEMENT.

D. RELEASE AND INDEMNIFICATION - (PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT)

CONTRACTOR AGREES TO AND SHALL RELEASE AND DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY BY ANY PARTY, INCLUDING CONTRACTOR, ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTOR FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTOR SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

CONTRACTOR SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT.

WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONTRACTOR SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND CONTRACTOR SHALL REFUND THE PURCHASE PRICE.

E. SUBCONTRACTOR'S INDEMNIFICATION

CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY AS SET FORTH IN THIS AGREEMENT.

F. INDEMNIFICATION PROCEDURES

(1) Notice of Claims. If the City or Contractor receives notice of any claim or circumstances that could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 30 days. The notice must include the following:

- (a) a description of the indemnification event in reasonable detail,
- (b) the basis on which indemnification may be due, and
- (c) the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10-day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

(a) Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonable satisfactory to the City. Contractor shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses incurred by the City constitute an indemnification loss.

(b) Continued Participation. If Contractor elects to defend the claim, the City may, through separate counsel, participate in (but not control) the defense and may participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Contractor does not fund in full, or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

G. Insurance

Contractor shall maintain in effect certain insurance coverage, which is described as follows:

(1) Risks and Limits of Liability. Contractor shall maintain the following coverages and limits of liability:

<u>Coverage</u>	<u>Limit of Liability</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	Bodily Injury by accident \$500,000 (each accident) Bodily Injury by Disease \$500,000 (policy limit) Bodily Injury by Disease \$500,000 (each employee)
Commercial General Liability: Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Bodily Injury and Property Damage, Combined Limits of \$500,000 each Occurrence and \$1,000,000 aggregate
Automobile Liability Insurance (for vehicles Contractor uses in performing under this Agreement, including Employer's Owned, Non-Owned and Hired Auto Coverage)	\$1,000,000 combined single limit per occurrence
Professional Liability Insurance	\$1,000,000 combined single limit per occurrence

Defense costs are excluded from the face amount of the policy.
Aggregate Limits are per 12-month policy period
Unless otherwise indicated.

(2) Form of Policies. The Director of Municipal Courts may approve the form of the insurance policies, but nothing the Director of Municipal Courts does or fails to do relieves Contractor from its duties to provide the required coverage under this Agreement. The Director of Municipal Courts' actions or inactions do not waive the City's rights under this Agreement.

- (3) Issuers of Policies. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition of Best's Key Rating Guide, Property-Casualty United States.
- (4) Insured Parties. Each policy, except those for Workers' Compensation, Employer's Liability, and Professional Liability, must name the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.
- (5) Deductibles. Contractor shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.
- (6) Cancellation. Each policy must state that it may not be cancelled, materially modified, or nonrenewed unless Contractor gives the Director of Municipal Courts 30 days advance written notice. Contractor shall give written notice to the Director of Municipal Courts within five days of the date on which total claims by any party against Contractor reduce the aggregate amount of coverage below the amounts required by this Agreement. In the alternative, the policy may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.
- (7) Subrogation. Each policy must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.

- (8) Endorsement of Primary Insurance. Each policy, except Workers' Compensation and Professional Liability, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.
- (9) Liability for Premium. Contractor shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.
- (10) Subcontractors. Contractor shall require all subcontractors to carry insurance naming the City as an additional insured and meeting all of the above requirements except amount. The amount must be commensurate with the amount of the subcontract, but in no case less than \$500,000 per occurrence. Contractor shall provide copies of insurance certificates to the Director.
- (11) Proof of Insurance.
- (a) On the Effective Date and at any time during the term of this Agreement, Contractor shall furnish the Director of Municipal Courts with Certificates of Insurance, along with an Affidavit from Contractor confirming that the Certificates accurately reflect the insurance coverage maintained. If requested in writing by the Director of Municipal Courts, Contractor shall furnish the City with certified copies of Contractor's actual insurance policies.
- (b) Contractor shall continuously and without interruption, maintain in full force and effect the required insurance coverages specified in this Section. If Contractor does not comply with this requirement, the Director of Municipal Courts, at his or her sole discretion, may immediately suspend Contractor from any further performance under this agreement and begin procedures to terminate this Agreement for default. The City shall never waive or be estopped to assert its

right to terminate this Agreement because of its acts or omissions regarding its review of insurance documents.

(12) Other Insurance. If requested by the Director of Municipal Courts, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

H. WARRANTIES

(1) GENERAL WARRANTY

CONTRACTOR'S PERFORMANCE SHALL CONFORM TO THE PROFESSIONAL STANDARDS PREVAILING IN HARRIS COUNTY, TEXAS WITH RESPECT TO THE SCOPE, QUALITY, DUE DILIGENCE, AND CARE OF THE SERVICES AND PRODUCTS CONTRACTOR PROVIDES UNDER THIS AGREEMENT.

(2) SYSTEM WARRANTY

THE CONTRACTOR WARRANTS THAT ITS COLLECTION SYSTEM WILL PERFORM. THE CONTRACTOR IS RESPONSIBLE FOR THE PROMPT CORRECTION OF ANY ERRORS OR OMISSIONS. IN THE EVENT OF ANY INTERRUPTION OF SERVICE, OR FAILURE OF CONTRACTOR'S COLLECTION SYSTEM OR CONTRACTOR'S PERSONNEL TO PERFORM SERVICE AS SPECIFIED IN THIS AGREEMENT, THE CONTRACTOR SHALL IMMEDIATELY RESTORE AND PROVIDE SUCH SERVICES TO THE CITY.

I. Licenses and Permits

Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation. Contractor shall immediately notify the Director of Municipal Courts of any suspension, revocation, or other detrimental action against the license of any agent, servant or employee of Contractor who is providing services under this agreement.

J. Compliance with Laws

Contractor shall comply with all applicable state, federal laws and regulations and the City Charter and Code of Ordinances.

K. Compliance with Equal Opportunity Ordinance

Contractor shall comply with City's Equal Employment Opportunity Ordinance as set out in Exhibit "B".

L. MWBE Compliance

Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 15% of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Exhibit "C". If Contractor is an individual person (as distinguished from a corporation, partnership, or other

legal entity), and the amount of the subcontract is \$50,000 or less, the attorneys of the respective parties must also sign the subcontract.

M. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

(2) Before the City signs this Agreement, Contractor shall file with Contract Compliance Officer for Drug Testing ("CCODT"):

- (a) a copy of its drug-free workplace policy,
- (b) the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "D" together with a written designation of all safety impact positions and,
- (c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "E".

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "F". Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement.

The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

(3) Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

(4) Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

N. Conveyance of Intellectual Property Developed in Connection with this Agreement by Contractor to City

Except as prohibited by any licensing agreements between the Contractor and its software providers, Contractor hereby conveys and assigns to the City for all time, Contractor's entire interest and full ownership worldwide in and to the Documents. The City shall have full and unencumbered rights to develop, use, duplicate, sell, distribute, adapt, modify, enhance, and/or translate the Documents and derivative works thereof. Thus, all rights, including copyrights, patent rights, trade secret rights, trademark and trade dress rights, and any other rights associated with the development, use, duplication, sale, distribution, adaptation, modification, enhancement, and translation of the Documents contemplated hereunder is vested in the City.

Contractor hereby agrees to execute all agreements required by the Director of Municipal Courts to further evidence the City's ownership of the Documents. Contractor shall cooperate with the City in registering, creating and enforcing the City's proprietary rights arising pursuant to this Agreement. On termination of this Agreement, or if requested prior to termination by the City, Contractor shall deliver all originals and copies of the Documents to the City, save and except that the Contractor may retain a copy of the Documents for its archives. Contractor shall not use, sell, license or market the Documents except to perform this Agreement. Contractor

shall obtain written agreements from the authors of the Documents that bind them to the terms of this Agreement.

The City acknowledges that the Contractor has developed a proprietary system. Nothing in this Contract shall transfer or assign any rights in a system currently under development or any other proprietary system currently in use by the Contractor to the City. However, the provisions of Article III, Section D, of this Agreement shall apply to such systems.

O. Pay or Play

The requirements and terms of the City of Houston Pay or Play program, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

IV. DUTIES OF THE CITY

A. Payment Terms

The City agrees to pay, and the Contractor agrees to accept, as its sole compensation for services performed under this Agreement, fees as set out in Exhibit "A" for the "Collection of Delinquent Non-Parking Citations".

B. Invoicing

Contractor shall submit its invoice to the Director of Municipal Courts for performance of services as set out under Exhibit "A" for any fee that may be due as provided in section A above, for the preceding calendar month, based on thirty percent (30%) of the fines/penalties collected where the collection penalty authorized by Art. 103.0031, Texas Code of Criminal Procedure has been imposed by the City. The City shall pay Contractor within thirty (30) days of the receipt and approval of the invoices.

If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director for the applicable services shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

C. Taxes

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director of Municipal Courts will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

D. Allocation of Funds/Limitation of City's Duty to Pay

a) The City's duties to pay money to the Contractor for any purpose under this Agreement are limited in their entirety by the provisions of this Section D. In order to comply with Article II, Section 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has not allocated any amount collected by Contractor under this Agreement ("Original Allocation") equal to the City's obligations to pay hereunder to be used to discharge its duties to pay money under this Agreement and no other funds are allocated hereunder. Notwithstanding anything herein to the contrary, Contractor agrees that the City's obligations under this Agreement are limited to the collection amounts authorized under this Agreement and that the City is permanently excused from making payments due under this Agreement for any calendar month if (and to the extent that) during such calendar month, the fee amounts sufficient to make such payments are not collected.

The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

b) The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS

By the signature below, the City Controller certifies that, upon the request of the responsible director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation.

\$ _____

c) The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

V. TERM AND TERMINATION

A. Agreement Term

This Agreement is effective on the Date of Countersignature and will remain in effect for three (3) years thereafter, unless sooner terminated under this Agreement.

B. Renewals

Upon expiration of the Agreement Term, and so long as the City makes sufficient supplemental allocations, as necessary, this Agreement may be automatically renewed for two (2) successive one-year terms upon the same terms and conditions. If the Director of Municipal Courts chooses not to renew this Agreement, he or she will give a written notice of non-renewal to Contractor at least thirty (30) days before expiration of the then-current term.

C. Termination for Convenience by City

The City may not terminate this Agreement for convenience during the first twenty-four months after the Effective Date of this Agreement. Thereafter, the Director of Municipal Courts, at his or her sole discretion, may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future. On receiving the termination notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services or only those services specifically enumerated in the notice under this Agreement and cancel all existing orders and subcontracts or specified services that are chargeable to this Agreement.

TERMINATION OF THIS AGREEMENT, RECEIPT OF PAYMENT FOR SERVICES RENDERED UP TO THE DATE OF TERMINATION AND REIMBURSEMENT OF ANY PRO-RATA SHARE OF ANY PREPAID COSTS BY CONTRACTOR (AS OUTLINED IN EXHIBIT "A", SECTION G) ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR

CONVENIENCE. TERMINATION FOR CONVENIENCE BY THE CITY DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

D. Termination for Cause by City

If Contractor defaults under this Agreement, the Director of Municipal Courts, at his or her sole discretion, may either terminate this Agreement for cause or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies, which exist now or in the future. Default by Contractor occurs if:

- (1) Contractor fails to perform any of its duties under this Agreement;
- (2) Contractor becomes insolvent;
- (3) All or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or
- (4) A receiver or trustee is appointed for Contractor.

If a default under subsection (1) above occurs, the Director of Municipal Courts will deliver a written notice to Contractor describing the default (the "Default Notice"). The Default Notice will set a date by which the default must be cured (the "Cure Date"), however, in no event will the Cure Date be less than twenty (20) days from the date the Default Notice is actually delivered to the Contractor. The Director of Municipal Courts, at his or her sole option, may extend the Cure Date to a later date. If Contractor does not cure the default before the Cure Date, then the Director may terminate this Agreement on the Cure Date, at no further obligation

of the City. To effect final termination, the Director must notify Contractor in writing. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and promptly cancel all orders or subcontracts chargeable to this Agreement.

E. Termination for Convenience by Contractor

Contractor may terminate this Agreement under this section V.E. by giving the Director of Municipal Courts 30 days' advance written notice if the City refers less than 50% of all Delinquent Cases to Contractor, as stated in Section B of Exhibit "A". In the event of termination by the Contractor for convenience under this Section V.E., the City will pay the Contractor any amounts earned by the Contractor pursuant to Section IV.A. through the termination date and any refunds of costs or reimbursements due the Contractor as hereinafter set out in Exhibit "A."

VI. MISCELLANEOUS

A. Independent Contractor

It is expressly understood and agreed that Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the city. Except as herein provided, Contractor shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors. The doctrine of respondeat superior shall not apply as between the City and Contractor, its officers, agents, employees, contractors, and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and the Contractor.

B. Severability

If any part of this Agreement is for any reason terminated or found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

C. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (expressed or implied), or other terms of any kind, exist between the Parties regarding this Agreement.

D. Written Amendment

This Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance or motion adopted by the City Council) and by the Contractor. The Director of Municipal Courts is only authorized to perform the respective functions specifically delegated to him or her in this Agreement and is not authorized to vary the terms of this Agreement.

E. Applicable Laws

This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction. Venue for any litigation relating to this Agreement is Harris County, Texas.

F. Notices

All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the party to whom the notice is given at its

address set out in Section I of this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

G. Captions

Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

H. Non-Waiver

Failure of either party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

I. Inspections and Audits

City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least four years after this Agreement terminates or expires. This provision does not affect the applicable statute of limitations.

J. Enforcement

The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining

Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

K. Ambiguities

If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

L. Survival

Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

M. Publicity

Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director of Municipal Courts.

N. Parties In Interest

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

O. Successors and Assigns

This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer, agent or employee of the City.

P. Business Structure and Assignments

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director of Municipal Courts' prior written consent.

Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest as described in §9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent.

Q. Remedies Cumulative

Except as otherwise provided, the rights and remedies contained in this Agreement shall not be exclusive, but shall be cumulative of all rights and remedies now or hereafter existing whether by statute, at law, or in equity; provided, however, that neither party may terminate its duties under this Agreement except in accordance with its provisions.

R. Force Majeure

1. Timely performance by both parties is essential to this Agreement. However, neither party is liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, and other acts of God, explosions, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.

2. This relief is not applicable unless the affected party does the following:

- (a) uses due diligence to remove the effects of the Force Majeure as quickly as possible; and
- (b) provides the other party with prompt written notice of the cause of the Force Majeure and its anticipated effect.

3. The City may perform contract functions itself or contract them out to others during periods of Force Majeure if the Director so chooses. Such performance is not a default or breach of this Agreement by the City.

4. If the Force Majeure continues for more than three (3) days from the date performance is affected, the Director may terminate this Agreement by giving 7 days' written notice to Contractor. Any termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE TO CONTRACTOR, IF ANY, UNDER THIS AGREEMENT AT THE TIME OF THE TERMINATION.**

5. Contractor is not relieved from performing its obligations under this Agreement due to a strike or work slowdown of its employees. Contractor shall employ only fully trained and qualified personnel.

6. The Contractor shall bear any costs associated with recreating data files, and any other cost incurred by the City because of the interruption of services.

S. Waiver, Estoppel and Laches

The Parties expressly agree that the doctrines of Waiver, Estoppel and Laches do not apply to the City.

T. CONTRACTOR DEBT

IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, SHE SHALL IMMEDIATELY NOTIFY

CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FOR ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR.

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EXHIBIT "A"

SCOPE OF SERVICES

MUNICIPAL COURTS ADMINISTRATION DEPARTMENT

Collection of Delinquent Non-Parking Citations

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A. DEFINITIONS

As used in this Exhibit "A", the following terms have the meanings set out below:

"Accounts" means Non-Parking Citations referred to the Contractor for collection.

"Alleged Violator or Defendant" means the individual who is alleged to be responsible for unpaid and/or Delinquent outstanding Non-Parking Citations.

"Agreement" means the AGREEMENT FOR COLLECTION SERVICES between the Parties, including all exhibits and any written amendments thereto, which have been authorized by City Council by ordinance or motion and approved by Contractor.

"Case" means an offense that has been filed with the City Municipal Court.

"Citation" means any unpaid Non-Parking ticket issued to a Defendant and filed in the City's Municipal Courts.

"Director", for the purpose of this Exhibit "A", means the Director of the Department of Municipal Courts Administration (including his or her duties as Chief Clerk of City's Municipal Courts), or any other person the Director designates. The Parties specifically understand and agree that in administering this Agreement, the Director is acting in his or her capacity as "a member of a Court of this State" within the meaning of that term as used in §101.053 of the Texas Civil Practice & Remedies Code.

"Due Date" means the date upon which payment is specified to be made on the face of the Citation.

"Fine Amount" means:

- (A) In the case of an adjudicated Case, the Recommended Fine Amount; or
- (B) In the case of an adjudicated Case, the Judgment Amount.
- (C) "Fine Amount" does not include non-monetary sanctions imposed by the Court such as community service or time served.

"Judgment Amount" means the total amount adjudicated by City's Municipal Court as the fine on a Citation, including all other costs, fees, penalties, interest, DPS fee or other revenue that may be provided for by law, any other agreement, or that may be assessed by the City's Municipal Court or otherwise collected in connection with a Citation.

"MCAD" means the Municipal Courts Administration Department.

"Mailing Noticing System" means an automated noticing method that meets or exceeds industry standards as established by the United States Postal Service for processing all mail notices required by this Agreement, capable of printing the notice, folding and inserting the notice into an envelope, applying appropriate postage and delivering the notices to an appropriate US Post Office for mailing in compliance with all applicable US Postal regulations. If the City

has provided the necessary information and approved the forms, the Notice must include a payment coupon that provides an OCR scan line to allow for automated payment process at an off site payment center.

"Master File Accounts" means Account data files submitted by the City to the Contractor and maintained by the Contractor under the terms of this Agreement.

"Non-Parking Citation" means a Citation other than a Parking Citation.

"Packeted" means multiple Citations for the same defendant which are grouped together.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

"Pre-Penalty Cases" mean 1) Cases referred by the Director to the Contractor prior to the Effective Date of this Agreement and 2) Cases that were filed prior to the imposition of the collection penalty provided for in Art. 103.0031, Texas Code of Criminal Procedure [as amended by Senate Bill 782, 78th Legislature (2003), but assigned by the Director to the Contractor after the Effective Date of this Agreement

"Recommended Fine Amount(s)" means the standard fines for Citations established by the Presiding Chief Judge of City's Municipal Courts. It is expressly understood and agreed that the Recommended Fine Amount(s) may be modified at any time at the sole discretion of the Presiding Judge of City's Municipal Courts. It is expressly understood and agreed that the Recommended Fine Amount includes all costs, fees, penalties, interest, DPS fee or other revenues that may be provided for by law, any other agreement, or that may be assessed by the City's Municipal Court or otherwise collected in connection with a Citation. The Director shall provide the Recommended Fine Amounts to the Contractor.

B. ACCOUNTS

For all Accounts, the Contractor shall implement all services described herein including, but not limited to:

1. Notice mailings;
2. Postage;
3. Address research;
4. Phone efforts;
5. Payment collection and processing of fines, costs and fees for uncontested tickets;
6. Notification to Defendants;
7. Providing management information and reports;
8. Providing all necessary equipment, facilities and communications;
9. Personnel and administrative support;
10. Providing all necessary software programs;
11. Providing security, insurance; and
12. Providing all inquiries and correspondence.

The Contractor shall generate written correspondence based on the information in the Contractor's Master File. The Contractor shall maintain copies for review by the Director.

The Director shall refer all Cases to the Contractor for collection as they become Delinquent. For any renewal years thereafter, the Director may not refer less than 50% of the City's Delinquent Cases to Contractor for collection. If less than 50% of the City's Delinquent Cases are referred to Contractor for collection during the renewal years, Contractor shall not be obligated to continue under this Agreement and may terminate the Agreement for convenience. If the Director elects to retain any portion of the Delinquent Cases, the selection process used by the Director shall be performed in a completely random manner and without regard to age of citation, amount of fine or collectability of any citation selected for retention.

The City agrees to pay, and the Contractor agrees to accept, as its sole compensation for services performed under this Agreement, fees equal to thirty percent (30%) of total Fine Amount collected in Cases where the collection penalty authorized by Art. 103.0031, Texas Code of Criminal Procedure has been imposed by the City.

C. REQUIRED PROCESSES AND STANDARDS

The Contractor shall maintain the following processes and work plan description at all times during the term of this Agreement. Contractor shall provide a copy of this work plan to the Director no later than 60 days after the Effective Date of this Agreement and the work plan may be modified by mutual consent of the Director and the Contractor. It is recognized by the Parties that these processes and work plan represent the minimum efforts required of the Contractor and that the Contractor may, at its option, perform additional collection efforts in addition to, but not inconsistent with these required processes and standards. Pre-Penalty Cases will be addressed at a different level of effort than penalty Cases as outlined herein, however, Contractor must still consider Pre-Penalty Cases a high priority for resolution. The 30% compensation does not apply to Pre-Penalty Cases. All expenses for notices, telephone calls, postage and other services performed by the Contractor shall be paid by the Contractor at its sole expense.

1. Defendant Identification and Address Research

- (a) State of Texas Issued Defendant Identifier. If the City does not provide both name and address of the Defendant at the time of assignment, Contractor will use a State of Texas issued Defendant identifier to obtain a name and address of record.
- (b) Internal Search. Contractor shall search its existing database to determine if an address and telephone number for the Defendant exists and if the Contractor has previously made contact. If such address does exist the Citations that have been issued to the same Defendant will be Packeted.

- (c) National Change of Address (NCOA) Submission. Prior to mailing any of the notices pursuant to this Agreement, the Contractor shall submit the proposed mail file for NCOA. If a new address is indicated by the NCOA submission, the Contractor shall mail future notices to the new address obtained from NCOA. The Contractor shall provide NCOA information to the City on a daily basis directly to the ICMS.
- (d) Electronic Skip-tracing. For any Cases (Pre-Penalty and otherwise) for which (i) the address to which the City has sent a previous mailing has been returned or (ii) the Contractor has received a return mail, the Contractor shall submit the Defendant for skip-tracing to a minimum of two services that perform this service electronically. The Contractor will determine the service(s) to be used for this purpose, but will provide the Director with the company name, the address, the phone number and the contact person for both skip tracing services. Once the Contractor has located the current address or current phone number of a Defendant, that information is to be provided to the City on a daily basis directly to the ICMS.
- (e) Manual Skip-tracing. The Contractor shall differentiate between electronic skip- tracing methods as described in Subsection (d) above which must be performed on all Cases (Pre-Penalty and otherwise) and manual skip-tracing.

For the following Case types listed below in (i) and (ii) where the electronic skip-tracing described in subsection (d) above does not result in a good mailing address and/or telephone number, the Contractor shall also attempt to obtain an address and or telephone number through manual skip-tracing pursuant to the following protocol. The Contractor shall provide to the City the name, address, phone number and contact person of the in house/agencies/services that the Contractor uses to provide manual skip-tracing.

- (i) Traffic/Non Traffic – When the Defendant's Citation is a new assignment and has an amount owed in excess of \$500.00. When the Defendant's Citation is 1 to 3 years old from date of assignment and has an amount owed in excess of \$750.00. When the Defendant's Citation is 4 to 7 years old from date of assignment and has an amount owed in excess of \$1,000.00.
- (ii) When the Defendant's Case is 1 to 3 years old from date of assignment and has accrued unpaid Cases for a total amount owed in excess of \$500.00. When the Defendant's Case is 4 to 7 years old from date of assignment and has accrued unpaid Cases for a total amount owed in excess of \$1,000.00.

- (f) Acquisition of Telephone Numbers. In addition to the foregoing electronic and manual skip-tracing the Contractor shall also, for any Defendant for which it does not have a valid telephone number, submit the Defendant to Telephone Pends ACCOLAID. Once a new telephone number is located and the file is updated, Contractor shall provide the new information to the City on a daily basis directly to the ICMS.

2. Mail Notices

- (a) Frequency of Notices. The Contractor shall send notices according to the following schedule with respect to each Defendant for which there is an address (which address has not been previously returned):

Traffic / Non-Traffic Cases.

- (i) Within fifteen (15) Business Days of initial assignment of a Case; and
- (ii) Within thirty (30) Business Days, of initial assignment of a Case; and
- (iii) Within forty-five (45) Business Days of initial assignment of a Case.
- (iv) Within seventy-five (75) Business Days of initial assignment of a Case.

Vehicle Registration Refusal

- (i) First notice: 15 business days of initial assignment of a Case; and
- (ii) Second notice: 45 business days of initial assignment of Case.

Pre-Penalty Cases

- (i) Pre-Penalty Cases that were assigned after the Effective Date of this Agreement are not charged the 30% compensation fee, however, the Contractor shall be required to mail notices for these Cases on the same schedule as set forth above for Traffic/Non-Traffic Cases. All other Pre-Penalty Cases shall be included in Annual Sweep.
- (ii) Form and Content of Notices. The form, content, and mailing sequence of all notices shall be reviewed and approved by the Director prior to implementation. The Contractor must develop notices in both English and Spanish, duplex printing. If the City has provided all necessary information and approved the requisite forms, notices shall include a payment stub with an OCR scan line that provides the required information to allow for off-site payment processing.

- (iii) Returned Notices. The Contractor, upon receipt of any notices that are mailed and returned because of incorrect information, shall use the methods identified in Sub-Subsection 1(c)-(e) to obtain the appropriate address and phone number prior to resuming noticing efforts or ceasing collection efforts. The Contractor must provide to the City any and all address and telephone number updates electronically, on a daily basis directly to the ICMS.
- (iv) Noticing Scheme Modifications. The Director, at his or her sole discretion, may modify form, content, sequence, number and timing of notices that are mailed to Defendants. Any modification(s) shall be implemented not later than ten (10) Business Days after receipt of written instructions from the Director.
- (v) The Contractor may, at its discretion, request approval from the Director to send notices in addition to those set out in Section B(2). In the event the Contractor makes such a request that is approved by the Director, the Contractor shall pay the cost of such mailings.
- (vi) Noticing Records. The Contractor shall maintain and provide a monthly performance report as part of the invoice process; otherwise the invoice shall not be paid. The performance report must provide noticing detail regarding each category of Case. The Contractor shall monitor its own performance against this Agreement. The format for this noticing records performance report must be approved by the Director. The Contractor shall maintain complete documentation, in a manner approved by the Director, of all noticing activity undertaken and shall provide the Director with such documentation upon request.

3. Telephone Efforts and Contacts

- (a) Frequency of Telephone Efforts for Traffic and Non-Traffic Cases. The Contractor shall attempt to contact Defendants alleged to have committed traffic or non-traffic offenses, not less than six (6) times on six separate days and at different times. The intention is for the Contractor to continue to locate the Defendant to encourage him/her to resolve their outstanding Cases. The Contractor upon reaching a Defendant shall make every effort to resolve all outstanding Cases including traffic and non traffic. The attempted calls to the Defendant shall be varied as to the day and the time of day to reasonably maximize the likelihood of making contact. The Contractor must complete these telephone efforts within forty-five (45) days of the assignment of the Case from the City. The Contractor must maintain Spanish speaking staff to assist Hispanic customers. The Contractor should provide an 800 phone line to assist Defendants in resolving their Cases; this phone number must be provided on all forms and correspondence.

- (b) Frequency of Telephone Effort for Pre-Penalty Cases. The Contractor shall make a minimum of four (4) telephone calls at different dates and times to reasonably maximize the likelihood of making contact. If a new telephone number is determined for a Defendant, Contractor will follow contact schedule as set out in Section 3 (a) above.
- (c) Special Instructions and Constraints. Any telephone contact between Contractor and the public must be limited to Monday through Saturday between the hours of 8:00 a.m. and 9:00 p.m. Central Standard Time or the time zone of the person being called. Contractor must provide Spanish language speaking staff to properly communicate with Spanish language speaking persons. Contractor must provide a toll free number for all public contact. Complaints received from the public must be maintained in a database and both the complaint and the resolution must be provided to the Director as part of the invoice process, otherwise the invoice will not be paid. Timely resolution of the issues and complaints should be the Contractor's goal. A turn around of 15 Business Days is the maximum to resolve a complaint from a Defendant.
- (d) Telephone Efforts and Contact Performance Report. A performance report regarding telephone contact per traffic, non traffic and per Pre-Penalty and other type of Cases for activity for the prior month must be submitted with the invoice prior to the invoice being paid. The Contractor is to monitor its own performance against this Agreement level of performance.
- (e) All telephone scripts shall be pre-approved by the Director before their use by Contractor.

4. Assistance in Serving Warrants

Contractor may not attempt to serve any outstanding warrants without the pre-approval of the Chief of Police and the Director. With such pre-approval, the Contractor may, from time to time and at the discretion of Contractor contract (at no cost to the City and in accordance with all policies and procedures relating to the employment of off-duty Houston Police Department personnel) with off-duty officers of the Houston Police Department for the purpose of serving outstanding warrants related to unpaid Citations which are the subject of this Agreement. Contractor may suggest to such officers particular warrants to be served by the officers while under contract to Contractor as off-duty officers. Any criteria used by Contractor in selecting certain warrants to be suggested to such officers will be subject to review and modification by the command staff of the Houston Police Department and the Chief of Police. Such officers will remain subject to all policies and procedures of the Houston Police Department relating to "off-duty" employment of such officers. Such officers will not collect monies from the subjects of such warrants, but will process the subjects of such warrants for failing to appear pursuant to the terms of the warrants, as they would in the enforcement of any such warrant. Such officers may, from time to time, as part of their

subcontract agreement with Contractor, serve warrants issued by courts other than the Houston Municipal Courts, but will not utilize any City of Houston resources to facilitate such service other than in conjunction with serving/executing a City of Houston warrant.

5. Non-traditional Collection Efforts

The Contractor shall provide, within sixty (60) days of the Effective Date of this Agreement a seasonal, cyclical marketing strategy regarding radio, television, and newspaper -- a strategy that will encourage Defendants to resolve their Cases timely. The strategy and scripts must be presented to the Director, and upon approval, implemented not later than ninety (90) days after the Effective Date of this Agreement. The marketing plan and the implementation of the plan will be at the sole expense of the Contractor. The Contractor agrees that it will undertake to develop non-traditional collection strategies and tactics, e.g., warrant sweeps with off-duty officers, public awareness campaign, etc., subject to review and modification by the command staff of the Houston Police Department and the Chief of Police. The Contractor agrees to expend not less than \$17,000 per month on such non-traditional strategies and tactics. However, if less than 100% of the City's Delinquent Cases are referred to the Contractor this expenditure amount shall be reduced proportionate to the percentage of cases not referred. Any such non-traditional strategies and tactics shall be approved by the Director prior to their implementation.

Contractor has purchased and donated two standard patrol cars to the Houston Police Department, to be used by such officers. Except when in use for purposes of this Agreement, the Houston Police Department shall have full use of such vehicles and shall retain ownership of such vehicles after any termination of this Agreement. In addition to such vehicle, the City of Houston and the Houston Police Department may, but are not required to, provide other vehicles of the Houston Police Department for use by the officers serving such warrants. The Houston Police Department shall exercise its discretion in determining when and if such vehicles shall be provided for use as set forth herein, and the terms of such use, if any. Contractor shall provide Automobile Liability Insurance that covers each vehicle used by officers when contracted by Contractor. Such insurance shall name the City as an Additional Insured on the original policy and all renewal policies. Each policy must also contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents or employees. Under no circumstances shall such insurance be less than \$1,000,000 combined single limit.

6. Vehicle Registration Refusal

Subject to the following provisions, Contractor shall mail at least two (2) notices to each Defendant selected by the City. The first notice shall inform the Defendant of the City's intent to place a registration hold on a motor vehicle owned by the Defendant because the Defendant has an outstanding warrant issued

by the City for failure to appear or failure to pay a fine on a complaint that involves the violation of a traffic law. The second notice shall inform the Defendant that the City has requested the Texas Department of Transportation (TXDOT) to "flag" a motor vehicle owned by the Defendant to prevent registration.

- (a) The mailings must take place under a City of Houston scofflaw contract with TXDOT.
- (b) The City must have in place a written Interlocal Agreement with Harris County Tax Assessor-Collector agreeing to deny the motor vehicle registration on the City's behalf.
- (c) The City will provide contractor data files containing sufficient information in a timely manner to accomplish the notice mailing. The initial data files sent to Contractor shall contain post judgment cases filed in 2005 thru 2008, thereafter data files shall be sent to Contractor no less frequently than once each week. Telephone contact with the defendant shall not be required.
- (d) The Director reserves the right to request Contractor to perform additional functions related to vehicle registration refusal. Such functions may include, but are not limited to:
 - ° Provide data submissions to TXDOT via CD-ROMs or other acceptable form of transmission in accordance with TXDOT specifications for computer run of initial probes (inquiry), flags (marking) of vehicle records and clears (removal) of flags.

°Submit an application to establish the method of payment and establish an account prior to submitting inquiries.

7. Minimum Staffing Levels

The Contractor shall provide the names, email address and phone numbers of the following personnel and the Contractor shall not replace these important personnel without first giving the Director advance written notice. The Contractor shall provide to the Director one contact person who will make themselves available to meet operational discussions and attend at minimum quarterly meetings to review performance. During the term of this Agreement, the Contractor agrees to have the following personnel assigned to performing the duties of the Contractor under this Agreement.

Project Manager (1)
Telephone Collection Supervisor (1)
Data Processing Coordinator (1)
Telephone Collectors (15)
Commercial Account Collector (1)

Skip-tracing Specialists (2)

D. PERFORMANCE STANDARDS

1. Liquidated Damages for Failure to Perform Required Processes

The Contractor agrees and acknowledges that performance of this Agreement can be measured in both increased Case resolution, increased revenue and can partially be measured by the level of effort provided by the Contractor through both noticing efforts and telephone contact efforts. The Contractor shall monitor performance in providing both mail and phone notice performance reports and providing on a monthly basis the amount of collections per category of Cases; traffic and non traffic. A failure to perform the required processes by Contractor as set out in Section B above, will result in damages to the City that are difficult to quantify. Therefore, the Contractor agrees to pay the City liquidated damages for substantial failures to perform these processes as set out below.

2. Liquidated Damages Table

The amount of liquidated damages per instance will be dependent upon the percentage of the required process performed by the Contractor on a monthly basis, to-wit:

Required Process	95% or above	80%-95%	Less than 80%
Skip-tracing	0	\$2,500	\$5,000
Mail notices	0	\$10,000	\$15,000
Telephone efforts	0	\$10,000	\$15,000
Minimum staffing levels	0	\$2,500	\$5,000

The liquidated damages from each category shall be cumulative. However, if less than 100% of the City's Delinquent Cases are referred to the Contractor, the liquidated damages amount shall be reduced proportionate to the percentage of cases not referred.

3. Reporting on Required Processes

The Contractor shall, not later than the twentieth (20th) day of the following month, submit all required performance reports and show the Contractor's activities with respect to the required processes and the percentage of compliance for each as set out above. The report will be in a form to be agreed upon by the Director and the Contractor. The reports that provide performance metrics as to required processes shall be a part of the invoice process. The City shall have no obligation to pay any invoice submitted until

the City has reviewed and reconciled the required performance reports associated with such invoice. However, in no event shall the obligation to pay submitted invoices be unreasonably delayed.

E. PAYMENT PROCESSING

The Contractor shall instruct Defendants to make payments to a post office box or other address designated by the Director. The City shall be responsible for processing and posting all mail and physical location payments made to City cashiers. The City's transaction detail with updated transaction data shall be provided to the Contractor on a daily basis, in turn it is paramount that the Contractor update its Database with this transaction detail on a daily basis. If there is any problem with this upload, the Contractor shall provide the City immediate notification and at no later than the end of same Business Day. It is the Contractor's responsibility to ensure that the transaction upload information is done daily and that the collection personnel for the Contractor have on line, real time access to this important information. The City does not want a Defendant contacted when their Case has been resolved.

The Contractor shall properly process all telephone credit card payments, electronic check payments, or other forms of electronic payments used by the Contractor's telephone collection staff before the end of the same Business Day. All payments must be processed and reported in such a manner as to avoid any possibility of false arrest. The criteria and the process for this transaction detail will be approved by the City and must be real time payment information that is provided directly to the ICMS system. The Contractor's personnel that are processing credit card, electronic check payment etc. must be checked for fraud and regularly monitored to avoid the potential problem of stealing credit cards. If the Contractor finds any issue or receives any complaint from a citizen that their credit card has been used falsely by a personnel of the Contractor, the City expects to be notified in writing within 48 hours that the investigation has commenced and that personnel will no longer be allowed to work the City of Houston account.

Contractor may collect credit card payments from Defendants using credit card processing criteria and process as approved and provided by the Director. All credit card payments and information shall be provided to the Court by the end of the same Business Day. Contractor shall provide a separate monthly report to the Director providing all credit card information requested by the Director. Contractor shall provide this service to the City at no cost. Contractor shall properly process and post all telephone credit card payments, electronic check payments or other forms of electronic payment. Contractor shall provide a daily summary report to the Director for all collections.

Contractor shall develop a marketing strategy to advertise both internet payment processes and the court's IVR system. Such processes and forms shall be pre-approved by the Director. All correspondence must advertise both payment processes.

1. Walk-In Payments

The Contractor shall not accept any walk-in payments, but rather shall direct the Defendant to the City's cashier locations or inform the Defendant about alternative payment methods available. The Contractor shall provide routinely to all citizens the locations and times of the court. It is the Contractor's responsibility to maintain those records.

2. Collection of Installment Payments

The City may elect to promulgate a program where Defendants who do not wish to contest their Case and who cannot afford to pay the total amount of fines and fees may be afforded an opportunity to pay the fines and fees on their Cases through an installment payment plan. In the event the City promulgates such a program, the Contractor will undertake reasonable efforts to implement such program and to inform Defendants of its availability.

3. Implementation of Lockbox

The Contractor will provide reasonable and necessary consulting services to assist the City with the implementation of a bank lockbox for processing payments to the City. The Lockbox criteria must meet the City's requirements; the criteria and the specs to implement the lockbox arrangement to the ICMS are part of the Contractor's expense. The transaction detail from the lockbox must be provided daily to the City via electronic means as specified by the City. In addition to providing these consulting services, the Contractor will reimburse the City for the cost of the bank's charge for the lockbox in an amount not to exceed \$100,000 per calendar year. The reimbursement will be made monthly as the City receives invoices for the lockbox services. The Contractor may satisfy this obligation by paying the lockbox vendor directly if the City chooses this option. Implementation of the Lockbox shall begin upon approval by the Director.

F. INFORMATION SYSTEM SERVICE LEVELS

1. System Compatibility

The City shall transmit to the Contractor by a mutually agreed method Case information. As the City provides this information to the Contractor, the Contractor shall update its relational database on a daily basis with the transaction detail provided by the City. Any issues or concerns regarding this upload must be reported to the City immediately and the Contractor must address any technical difficulties immediately.

The Contractor shall create and transmit to the City an FTP or tape file on a daily basis, which shall show any updated identification on Defendant location/contact information, received by the Contractor in its collection

efforts. Contractor shall update credit card information on a daily basis. The Contractor shall prepare the tapes and/or FTP files in a standard file format to be mutually agreed by the Contractor and the City.

2. Master File Access

The Contractor shall provide, at no cost to the City, real time on-line access for 18 persons designated by the Director to Contractor's Master File of Accounts. In addition, the Contractor shall continue to provide access to information on those Accounts that have been paid or otherwise disposed for a period of at least ninety (90) days following final disposition of the Account. The Contractor shall retain all Master File information and transactions for the entire term of this Agreement.

The Contractor shall provide the capability for the City to access on-line all payment processing information as well as noticing, payment, disposition activities, and the corresponding dates of such activities. Contractor shall also provide training to Court staff on Contractor's on-line processing system.

The Director may, in his or her sole discretion, revise any reports or file access format specification as needs change and the Contractor will have ten (10) Business Days to implement such changes.

Contractor shall ensure that the City is provided with on-line access to all data stored in Contractor's database, on Contractor's equipment, and/or at Contractor's location that was collected and retained by the Contractor either from the City or in the performance of Contractor's business activities on behalf of the City.

3. System Failure

The Contractor shall provide to the City, immediately upon discovering system failure or programming error, information detailing causes for the system failure. The Contractor shall satisfactorily correct, within two (2) Business Days, at no cost to the City, all Contractor's hardware or software malfunctions and other Contractor errors.

4. Terminal Uptime

The Contractor shall complete the repair or replacement of any hardware device that fails to perform in accordance with Director approved specifications within four (4) hours of receipt of notification of malfunction from the City (plus normal local travel time).

5. Timely Delivery of Outputs

Contractor shall deliver accurate and timely management and performance reports as may be required by the Director. It is imperative that reports be received as described and at the time requested. The Contractor shall deliver files and other reports required to MCAD by the end of each Business Day. The Contractor shall deliver accurate monthly reports to their designated recipients no later than ten (10) Business Days after the end of each calendar month.

6. Systems Availability

All Contractor computer systems shall be available to the Director. The systems must be able to display detailed information on individual Accounts and summarize multiple Account information by license plate numbers, name or Citation number, or as otherwise specified by the Director.

The Contractor shall provide at its own cost all telephone and communication lines, modems, and other telecommunication devices required to perform the services under this Agreement.

The Contractor shall notify the Director of each occurrence of downtime, shall report to the Director the causes and expected duration of such downtime, and the remedial measures being undertaken. The Director shall provide to the Contractor a list of persons to be notified and the appropriate telephone numbers. The Contractor shall also notify the Director of any foreseeable or anticipated downtime at least twenty-four (24) hours before such downtime is to occur.

The Contractor shall respond within one (1) hour (plus normal travel time) of reported equipment or software failure by providing on-site technical support at the City's premises. In instances of repeated system failures, the Director may, at his or her sole discretion, and at no additional cost to the City, require that the Contractor provide on-site technical support on a full-time basis until the problem is permanently corrected. For equipment failure coverage, the Contractor shall contract with its equipment contractors and suppliers to obtain service agreements requiring the supplier to respond on any Business Day within one (1) hour plus normal local travel time of a reported equipment failure.

7. Management Information System

The Contractor shall perform all computer programming that is necessary to generate the electronic or written reports that are required by the Director for the execution and monitoring of Contractor's performance. The Director will specify the types and specifications for the performance reports. Unless otherwise provided, the Director may, at his or her sole discretion, modify or enhance Contractor's reporting requirements at anytime during the Agreement.

term upon 10 Business Days advance written notice to the Contractor. Contractor shall be responsible for necessary interface requirements to the City's case management system. Specifications will be developed by Contractor and approved by Director. Any subsequent changes in specifications or changes in interface processes that require additional expenditure, these expenditures will be incurred solely by the Contractor. Upon the request of the Director, Contractor shall review with the Director its performance under this Agreement to evaluate Contractor's compliance.

8. System Documentation

The Contractor shall provide the Director with complete user documentation of all system flows, processing functions, and procedural and system controls for all payment processing activities for which the Contractor is responsible. This documentation shall, at a minimum, include:

- ☐ Copy of all telephone scripts,
- ☐ Policy and Procedures for handling citizen complaints,
- ☐ Copy of Contractor's training manuals,
- ☐ The manner in which all processing functions are carried out,
- ☐ The interrelationships or interfaces between the various sub-systems,
- ☐ A functional organization chart,
- ☐ The locations at which such functions are carried out, and
- ☐ The timing for the carrying out of each function.

The Contractor shall prior to making any enhancements or modifications to the systems and procedures, receive approval from the Director and forward relevant documentation within two (2) Business Days of the implementation of such enhancements or modifications.

9. System Test

All system modifications, enhancements, or other changes shall be made and properly tested by the Contractor and approved by the Director before their implementation. The Contractor shall bear the cost and expense of any needed enhancements or modifications. Comprehensive test files to test systems shall be done and actual test results shall be provided to the Director before implementation of the system(s).

10. Back-up systems

The Contractor shall have or create complete back-up systems and capacity for all systems including hardware, software, communication lines, and other equipment. The Contractor shall retain sufficient back-up files so that reconstruction of all payment processing activities can be accomplished for audit purposes and emergency situations.

11. Production Schedules

The Contractor shall prepare a detailed monthly production schedule for report and other document generation, transaction cut-off periods, and notice mailing. Such schedules shall be delivered to the Director at least ten (10) Business Days before the beginning of the month of scheduled production.

12. Training

The Contractor shall, at the Director's request, conduct instruction and training of City personnel in connection with any of the services or provision of equipment for which the Contractor is responsible.

13. Daily Transaction Files or Other Electronic Media

The Contractor shall acquire and maintain in a secure location within its control, all computer files or other electronic media relating to daily transactions processed by the Contractor. The Contractor may, however, consolidate such daily electronic files on a weekly or monthly basis and substitute the daily files with a consolidated file so long as the Contractor's complete Master File can be reconstructed in its entirety at any time.

14. Enhancements

Contractor system enhancements may be required by the Director. Such enhancements may include, but are not limited to: a) report changes; b) addition/deletion of reports; c) addition, deletion or relocation of equipment; or d) a change in the format of Accounts.

The Contractor must review the specifications of any system required enhancements and respond with a development and implementation schedule within ten (10) Business Days. Upon receipt of written authorization from the Director, Contractor shall commence work on the requested changes by a mutually agreed upon date. The Contractor shall also update the appropriate system and user documentation to reflect the enhancements. The Contractor must provide, prior to implementation, the description, capabilities, operation and maintenance of all proposed and installed hardware and software, as well as training, consultation and assistance to City's staff.

15. Other Specifically Requested Processing

The Contractor (and its system) must have the capability to:

- ☐ Discontinue or suspend noticing and collection of disputed Cases temporarily or permanently if authorized by the Director.
- ☐ Add any additional penalties, costs or fees to Accounts as authorized by law.
- ☐ Update names and addresses on Accounts on a daily basis.
- ☐ Update name and address information on a format (usable by the City to be approved by the Director) that the City may use to run against its Master File to update name and address information.

16. Project Administration

The Director shall provide overall project administration.

17. Site Inspections & Access

1. To assure compliance with any Agreement term or condition, the Director shall have the right to enter into the Contractor's premises during normal business hours to inspect, monitor, or otherwise evaluate the work performed or being performed therein. The Director shall be permitted access at all reasonable times.
2. The Contractor shall assure that the Director shall have access during normal business hours to any books, documents, records, tapes and papers retained by the Contractor which the Director determines are pertinent to making an audit or examination.

18. Service Requirements

All telephone contacts made and correspondence used by the Contractor must comply with applicable federal, state and local laws. The Director shall review and approve all correspondence, notices and telephone scripts prior to their use

19. Collection Techniques

Collection techniques used by the Contractor must include, but are not limited to:

- Extensive address, name correction and research to locate Defendants. Contractor is required to utilize all available resources standard in the collections industry for locating, identifying and updating the City's

files for Defendants' information, including: home and business address, home and business phone numbers and Texas Driver's License number;

- An aggressive noticing program;
- Correspondence for the purpose of disposing of Delinquent Cases and Bond Accounts;
- Comprehensive state of the art "Skip tracing" methodologies;
- Extensive telephone contact with Defendants to dispose of outstanding accounts and;
- Customer service initiatives to resolve Defendant complaints or concerns.

20. Success of Proposed Collection Techniques

The Director reserves the right to review at any time and approve or disapprove any collection techniques that are proposed by the Contractor.

21. Documentation Of Collection Efforts

The Contractor shall maintain complete documentation of all collection activities and shall maintain logs, reports and other records that are subject to review by the Director. The Contractor shall maintain a flowchart description of its collection process.

22. Performance Reporting

The Contractor shall develop both the noticing and telephone performance reports and submit them to the Director within 30 days after the Effective Date of this Agreement. These performance reports must be submitted on a monthly basis along with the invoice. The Contractor is responsible for monitoring its own performance and tracking it against the contract, and evaluating its own performance monthly. Failure to produce the performance reports timely may necessitate delaying the payment of the invoice. The Contractor shall implement and operate a system for recording, monitoring, and responding to all complaints and requests by the City relative to the Contractor's performance and obligations. Contractor will provide a monthly report to the Director that tracks complaints and resolutions. It shall develop procedures and reporting formats to track and respond to all requests and complaints in a systematic and timely fashion.

G. RESPONSIBILITY FOR COSTS

1. General Expenses

The Contractor shall be responsible for all costs necessary to execute the work plan set out in Section C above, including but not limited to, the cost of notices (including printing, folding, stuffing and postage), all telephone charges (including any long distance charges), skip-tracing or address research/search charges, payments to off-duty officers to assist in serving warrants, and advertising or public relations costs incurred in the public awareness campaign.

2. Other Expenses

In addition to the foregoing general expenses, the Contractor agrees to pay (or reimburse the City) the following expenses:

(a) Any expenses specifically assumed in any other part of this Agreement.

(b) The Parties recognize that the successful completion of this Agreement is closely tied to the Municipal Courts' ICMS project as well as to the operational policies and procedures of court administration. The Contractor agrees to assist the Municipal Courts with unanticipated costs of delivery of its core services. These unanticipated costs may include network connectivity, other technology, infrastructure upgrades, programming costs, and any other costs that the Director may identify.

To assist the Municipal Courts with the above items, the Contractor agrees to the following lump sum assistance payments to the City according to the schedule below:

(i) For the first Agreement year that begins on the Effective Date, Contractor shall pay to the City \$200,000 within sixty (60) days after the Effective Date.

(ii) Each year thereafter, Contractor shall pay to the City the following applicable sum within ninety (90) days after the anniversary of the Effective Date:

Year 2	\$150,000
Year 3	\$75,000
Renewal Year 1	\$50,000
Renewal Year 2	\$25,000

(c) The City shall submit appropriate documentation showing the cost incurred by the City referred to in (b) above.

(d) For any Agreement year after Agreement Year 3: (i) if the Director terminates the Agreement for convenience during such year, then the City shall return to Contractor a pro-rata amount of the amount paid by Contractor to the City for that year and (ii) if the Director refers to Contractor less than 50% of all Delinquent Cases (excluding Parking Citations that are removed from the purview of the Municipal Court and are severed from this Agreement) in that Agreement year, then the City shall return to Contractor within 30 days following the date of termination a pro-rata amount of the amount paid. The pro-rated amount shall be calculated as follows:

Total amount paid by Contractor to the City for that year multiplied by (1 minus Total Delinquent Cases assigned to Contractor divided by Total Delinquent Cases up to date of termination, multiplied by the number of months in Agreement year prior to date of termination divided by 12).

EXAMPLE: $150,000 \times (1 - (5000/8,000 \times 4/12)) = X = 150,000 \times .79375 = 119,062.50$ to Contractor

H. GENERAL PROVISIONS AND REQUIREMENTS

1. Maintenance of Local Office

The Contractor must maintain a local office within the City limits of Houston, Harris County, Texas.

2. Ownership of Information

(a) All information and data acquired by the Contractor from the City or from others at the expense of or through the participation of the City in the performance of the services under this Agreement, shall be and remain the property of the City.

(b) The Contractor must use this information and data only as required in the performance of services required by this Agreement, and shall not, before, during, or after the term of this Agreement, otherwise use, copy or reproduce, sell or distribute the information in any form, except pursuant to the written instructions and authorization by the Director. The Contractor must return the information to the City promptly at the request of the Director on magnetic tape or in a medium or format determined by the Director.

3. Confidentiality of Information and Security

The Contractor shall become the holder of and have access to confidential information. The Contractor shall keep such information confidential and shall

comply fully with the laws and regulations of the State of Texas, ordinances and regulations of the City, and any applicable federal laws and regulations, including amendments thereto, relating to confidentiality.

4. Customer Service

Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor's employees shall be trained to be customer-service oriented and to positively and politely interact with citizens when performing services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance at all times and committed to offering the highest degree of service to the public. If, in the Director's determination, the Contractor is not interacting in a positive and polite manner with citizens, the Director may notify the Contractor of such determination and the Contractor shall immediately take all remedial steps to conform to the standards required by this Agreement.

5. Suspend Efforts/Holds and Recall of Accounts

The Contractor shall suspend collection efforts on any Citation and take no further action if instructed to do so in writing or by appropriate electronic means such as e-mail, etc., by the Director. Collection efforts may be resumed by a subsequent written request to do so. The Director also reserves the right to recall (withdraw assignment) any or all uncollected Citations previously assigned to the Contractor without monetary charge of any kind to the City. For each Citation that is suspended or withdrawn, the Contractor shall receive no collection fee on such Citation, if the Citation is dismissed by a court of competent jurisdiction or has been satisfied through time-served credit or community service.

6. Secondary Collection Agency

The Director shall have the right to review and approve the use of any support agencies, secondary (sub-Contractor) collection techniques, services, or sub-Contractor agencies used. The sub-Contractor collection agency used by the Contractor must be approved by the Director and, subject to the same standards, limitations and restrictions as Contractor. It shall be Contractor's responsibility to assure that sub-Contractors operate within the terms of this Agreement. The Contractor must report to the City on a monthly basis all Accounts referred to sub-Contractors for collection.

7. Public Awareness Component

The Contractor shall develop a public awareness plan that will make use of the media to inform citizens of the consequences of their failure to resolve outstanding Citation and the various payment options. Neither party will have any obligation under this Agreement or the public awareness plan to purchase

any advertising. The Contractor specifically understands and agrees that it may not release any information related to its performance under this Agreement to the media without the prior written approval of the Chief of Police and the Director. Contractor shall not issue Press Releases without the pre-approval by both the Mayor's Communication's Office and the Director.

8. Scope of Authority regarding Cases

The Contractor has no authority to settle Accounts for less than the Fine Amount plus all applicable fees, costs and other charges appurtenant to the Judgment Amount or the Recommended Fine Amounts.

The Contractor has no authority to make decisions regarding dispositions of outstanding Cases. The Contractor shall inform the Defendant of his or her available alternatives for action. The Director will provide information to the Contractor on alternatives available to the Defendant.

EXHIBIT "B"

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT "C"

MWBE SUBCONTRACT TERMS

Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers are clearly labeled "THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT" and contain the following terms:

1. Law Office Of Darryl Carter / B&E Reprographics (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Affirmative Action Director ("the Director").
2. Law Office Of Darryl Carter / B&E Reprographics (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.
3. Within five business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.
4. As concluded by the parties to this subcontract, and as evidenced by their signature hereto, any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 -- "the Act"). Arbitration shall be conducted according to the following procedures:
 - a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.
 - b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with American Arbitration Association on file in the Office of the City's Affirmative Action Division.
 - c. Upon submittal of the matter to arbitration each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.
 - d. In the event the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

EXHIBIT "D"

DRUG POLICY COMPLIANCE AGREEMENT

I, Norman J. Nelson Managing Partner as an owner or officer of
(Name) (Print/Type) (Title)
Linebarger Goggan Blair & Sampson, LLP (Contractor)
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

06/16/2009

Date

Norman J. Nelson

Contractor Name



Signature

Managing Partner

Title

EXHIBIT "E"

**CONTRACTOR'S CERTIFICATION
OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT**

I, Norman J. Nelson, Managing Partner,
(Name) (Title)

as an owner or officer of Linebarger Goggan Blair & Sampson, LLP (Contractor)
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved

in performing City of Houston Municipal Courts Collection Services.
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

06/16/2009
(Date)

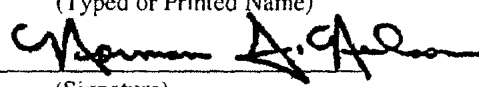
Norman J. Nelson
(Typed or Printed Name)

(Signature)
Managing Partner
(Title)

EXHIBIT "F"

DRUG POLICY COMPLIANCE DECLARATION

I, Norman J. Nelson Managing Partner as an owner or officer of
 (Name) (Print/Type) (Title)
Linebarger Goggan Blair & Sampson, LLP (Contractor)
 (Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from Dec 2008 to May, 20 .

NJN A written Drug Free Workplace Policy has been implemented and employees notified. The policy
 Initials meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence
 (Mayor's Policy).

NJN Written drug testing procedures have been implemented in conformity with the Mayor's Drug
 Initials Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31. Employees have
 been notified of such procedures.

NJN Collection/testing has been conducted in compliance with federal Health and Human Services
 Initials (HHS) guidelines.

NJN Appropriate safety impact positions have been designated for employee positions performing on
 Initials the City of Houston contract. The number of employees in safety impact positions during this
 reporting period is 0.

NJN From Dec 2008 to May 2009 the following test has occurred
 Initials (Start date) (End date)

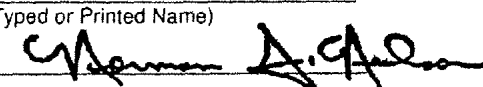
	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
Number Employees Tested	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Number Employees Positive	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Percent Employees Positive	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

NJN Any employee who tested positive was immediately removed from the City worksite consistent with
 Initials the Mayor's Policy and Executive Order No. 1-31.

NJN I affirm that falsification or failure to submit this declaration timely in accordance with established
 Initials guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration
 are within my personal knowledge and are true and correct.

06/16/2009
 (Date)

Norman J. Nelson
 (Typed or Printed Name)

 (Signature)
Managing Partner
 (Title)